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MONTANA LEGISLATIVE HISTORY

Chapter 14 ~~19~~ SP 8 2002

Bill H 21 S _____ Original bill & history ✓ C

H. Committee on Appropriations			S. Committee on Taxation		
Hearing Date(s) 8/07		C	Hearing Date(s) 8/09		C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

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Montana Legislature 2002 Session
Detailed Bill Information

Bill Draft Number:	LC0068	Current Bill Text
Bill Type - Number:	HB 21	Fiscal Note
Short Title:	Require full recovery of indirect costs from federal and third-party grants.	
Primary Sponsor:	Joe Balyeat	

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 47

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	08/16/2002			
(H) Signed by Governor	08/16/2002			
(H) Transmitted to Governor	08/12/2002			
(S) Signed by President	08/10/2002			
(H) Signed by Speaker	08/10/2002			
(H) Returned from Enrolling	08/10/2002			
(C) Sent to Printing	08/10/2002			
(H) Sent to Enrolling	08/10/2002			
(H) 3rd Reading Passed as Amended by Senate	08/10/2002	100	0	
(H) 2nd Reading Senate Amendments Concurred	08/10/2002	100	0	
(H) Scheduled for 2nd Reading	08/10/2002			
(S) Returned to House with Amendments	08/09/2002			
(S) 3rd Reading Concurred	08/09/2002	49	0	
(S) 2nd Reading Concurred on Voice Vote	08/09/2002	49	0	
(C) Sent to Printing	08/09/2002			
(S) Committee Report--Bill Concurred as Amended	08/09/2002			(S) Taxation
(S) Committee Executive Action--Bill Concurred as Amended	08/09/2002	8	0	(S) Taxation
(S) Hearing	08/09/2002			(S) Taxation
(S) Referred to Committee	08/08/2002			(S) Taxation
(S) First Reading	08/08/2002			
(H) Transmitted to Senate	08/07/2002			
(H) 3rd Reading Passed	08/07/2002	98	2	
(C) Sent to Printing	08/07/2002			
(H) 2nd Reading Passed as Amended	08/07/2002	97	3	
(H) 2nd Reading Motion to Amend Carried	08/07/2002	98	2	
(H) Sponsor List Modified	08/07/2002			
(C) Sent to Printing	08/07/2002			
(H) Committee Executive Action--Bill Passed as Amended	08/07/2002	16	2	(H) Appropriations
(H) Fiscal Note Printed	08/07/2002			

(H) Fiscal Note Received	08/07/2002			
(H) Hearing	08/07/2002			(H) Appropriations
(H) Scheduled for 2nd Reading	08/07/2002			
(H) Referred to Committee	08/02/2002			(H) Appropriations
(H) Fiscal Note Requested	08/02/2002			
(C) Introduced Bill Text Available Electronically	08/01/2002			
(H) Introduced	08/01/2002			
(C) Pre-Introduction Letter Sent	07/26/2002			
(C) Draft in Assembly/Executive Director Review	07/25/2002			
(C) Draft in Final Drafter Review	07/25/2002			
(C) Bill Draft Text Available Electronically	07/25/2002			
(C) Draft in Input/Proofing	07/25/2002			
(C) Draft to Drafter - Edit Review [CMD]	07/25/2002			
(C) Draft in Edit	07/25/2002			
(C) Draft in Legal Review	07/25/2002			
(C) Draft to Requester for Review	07/22/2002			
(C) Fiscal Note Needed	07/19/2002			
(C) Draft Request Received	07/19/2002			

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Balyeat	Joe	
Drafter	Heiman	Lee	
Primary Sponsor	Balyeat	Joe	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
State Finance (see also: Appropriations; Taxation Subjects)		Simple	STF

Additional Bill Information

Probable Fiscal Note:	Yes
Preintroduction Required:	N
Session Law Ch. Number:	14
DEADLINE	
Category:	General Bills
Transmittal Date:	08/30/2002
Return (with 2nd house amendments) Date:	08/30/2002

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	16-AUG-02	

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Last Modified:7/15/2008 12:49:13 PM

HOUSE BILL NO. 21

INTRODUCED BY J. BALYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT MAXIMIZING GENERAL FUND REVENUE BY ENHANCING COLLECTION OF STATE REIMBURSEMENT FOR INDIRECT COSTS ASSOCIATED WITH FEDERAL OR PRIVATE CONTRACTS AND GRANTS; REQUIRING FULL RECOVERY OF INDIRECT COSTS FROM FEDERAL AND PRIVATE GRANTS; PROVIDING THAT AN AGENCY MAY NOT WAIVE REIMBURSEMENT FOR INDIRECT COSTS; AMENDING SECTION 17-3-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-3-111, MCA, is amended to read:

"**17-3-111. Indirect cost rates -- allocation.** (1) Grantee agencies shall, in accordance with federal regulations and guidelines and with private grant rules, as appropriate, negotiate indirect cost ~~rates and endeavor, to the fullest extent possible, to~~ reimbursement amounts and methodologies and recover indirect costs of federal assistance programs and private assistance programs.

(2) An agency, including a unit of the university system, that applies for or otherwise receives funds through federal or private grants or contracts that do not allow the agency to fully recover indirect costs shall notify and receive written approval from its approving authority prior to accepting the funds.

(3) An agency, including a unit of the university system, may not, as part of the grant or contract proposal or negotiation process, waive or otherwise forfeit the agency's ability to recover indirect costs that are otherwise allowable costs under the program. For grants or contracts for which the entity providing the funds limits administrative cost reimbursements or indirect cost recoveries by regulation, policy, or guideline, statewide and agency indirect costs paid originally from the general fund must be claimed first, other indirect costs must be claimed second, agency direct costs of administration must be claimed third, and program direct costs must be claimed last. For grants or

contracts for which there is no limit on indirect costs or administrative costs, indirect and administrative costs must be claimed first and direct program costs must be claimed last.

~~(2)~~(4) Indirect costs recovered from federal sources pursuant to the statewide cost allocation plan provided in 17-3-110, except those costs recovered by a unit of the university system, must be deposited in the general fund. All other indirect costs, except those costs recovered by a unit of the university system, must be deposited in the fund from which the indirect costs were originally paid."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

- END -

FISCAL NOTE

Bill #: HB0021

Title: Require full recovery of indirect Costs from federal and third-party grants

Primary Sponsor: Joe Balyeat

Status: As Introduced

Sponsor signature Date

Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY 2003 Difference	FY 2004 Difference	FY 2005 Difference
Expenditures:	0	0	0
Revenue:			
General Fund – SWCAP	1,507,326	1,001,125	589,830
Net Impact on General Fund Balance:	**1,507,326**	**1,001,125**	**589,830**

Yes	No		Yes	No	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

1. Agencies that receive federal funds will recover the use of centralized services paid by the general fund through the Statewide Cost Allocation Plan (SWCAP). Non-federal/non general funded divisions will recover these costs through the State Funds Cost Allocation Plan (SFCAP).
2. State Fund Cost Allocation Plan assessments have historically been paid in full. Statewide Cost Allocation Plan contributions have been approximately $500,000 per fiscal year for the last three years.

FISCAL IMPACT:

	FY 2003 Difference	FY 2004 Difference	FY 2005 Difference
Revenues:			
General Fund (01)	1,507,326	1,001,125	589,830
Net Impact to Fund Balance (Revenue minus Expenditure):			
General Fund (01)	1,507,326	1,001,125	589,830

TECHNICAL NOTES:

Suggest adding a provision that state agencies can not charge indirect costs on grants from other state agencies, perhaps an "except ..." phrase on page 1, line 23, following program. This will prevent programs like Growth Through Agriculture being charged for its $600K of grants to other agencies and the Wheat and Barley Commission being charged for its grants to the MUS.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - SPECIAL SESSION
COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIR DAVE LEWIS**, on August 7, 2002 at 8:15 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chair (R)
Rep. Edith Clark, Vice Chair (R)
Rep. Matt McCann, Vice Chair (D)
Rep. John Brueggeman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. Tim Callahan (D)
Rep. Bob Davies (R)
Rep. Stanley (Stan) Fisher (R)
Rep. Dick Haines (R)
Rep. Donald L. Hedges (R)
Rep. Joey Jayne (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. Jeff Pattison (R)
Rep. John Sinrud (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Taryn Purdy, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: HB 21 - DPAA - 16-2
HB 14 - DO PASS - 15-2
HB 16 - DO PASS - 14-3

Closing by Sponsor: **Representative Lewis closed the Hearing on HB 22.** He said **Greg Petesch, Director, Legal Services Office,** advised him that it is entirely possible and probable that this would require a 3/5 vote. One equipment operator or one contractor could say the legislature is risking their long-term highway construction program.

EXECUTIVE ACTION ON HB 22

Motion: **REP. HEDGES** moved that **HB 22 DO PASS.**

Substitute Motion/Vote: **REP. TROPILA** moved that **HB 22 BE TABLED.** Motion carried unanimously 17-0.

HEARING ON HB 21

Sponsor: **Representative Joe Balyeat, HD 32** said this Bill is an Act maximizing general fund revenue by enhancing collection of state members for indirect costs associated with federal and private grants and contracts, providing that an agency may not waive reimbursement for indirect costs and providing an immediate effective date. He referred to the fiscal note which will save the general fund $1.5 million in this next year, another $1 million in FY 2004 and another $600,000 in FY 2005. It is a bipartisan issue. **EXHIBIT(aph03a03)**

{Tape : 1; Side : B; Approx. Time Counter : 0 - 27.1}

Proponents: **Dave Galt, Director, Department of Transportation**

Opponents: **Dick Crofts, Commissioner, Higher Education**
EXHIBIT(aph03a04)

Lloyd Chestnut, Vice President, Research, University of Montana.

Questions from Committee Members and Responses: **Representatives Jayne, Lewis, Hedges, McCann to Representative Balyeat, Commissioner Crofts, Mr. Chestnut for further clarification.**

{Tape : 2; Side : A; Approx. Time Counter : 0 - 29.5}

Further Questions from Committee Members and Responses: **Representatives McCann, Pattison, Buzzas, Lewis, Kasten, Haines to Representative Balyeat, Commissioner Crofts for clarification.**

Marie Matthews, Department of Public Health and Human Services also responded to a question from Representative Buzzas.

Closing by Sponsor: Representative Balyeat closed the Hearing on HB 21.

EXECUTIVE ACTION ON HB 21

Motion: REP. CLARK moved that HB 21 DO PASS.

Motion/Vote: REP. HAINES moved that HB 21 BE AMENDED, with a conceptual amendment on lines 18 and 21 to strike the words "including a unit" and replace that with "excepting units". Motion carried unanimously.

Motion/Vote: REP. KASTEN moved that HB 21 BE AMENDED, with a conceptual amendment to implement a technical note. HB002101.aem EXHIBIT(aph03a05) Motion carried unanimously.

Motion/Vote: REP. TROPILA moved that HB 21 DO PASS AS AMENDED. Motion carried 16-2 with Representatives Buzzas and Kaufmann voting no.

Vice Chair Clark presided at this time.

HEARING ON HB 20

Sponsor: Representative Butch Waddill, HD 62 said this Bill essentially eliminates the Governor's Office of Economic Development. He referred to Page 2, lines 8 and 9, line 21; Page 3, line 5; Page 4, line 15.

Proponents: None

Opponents: Dave Gibson, Chief Business Officer, State of Montana, Office Economic Development, EXHIBIT(aph03a06)

{Tape : 2; Side : B; Approx. Time Counter : 0 - 29.4}

Robin Hampton, Private Sector Business Consultant, Helena

Dick Kane, Missoula Area Economic Development Associations.

Vic Miller, Blaine County Commissioner

MINUTES

MONTANA SENATE
57th LEGISLATURE - SPECIAL SESSION
COMMITTEE ON TAXATION

Call to Order: By **CHAIR BOB DEPRATU**, on August 9, 2002 at 10:30 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chair (R)
Sen. Alvin Ellis Jr., Vice Chair (R)
Sen. John C. Bohlinger (R)
Sen. Mack Cole (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	SB 30, 8/23/2002; HB 21, 8/23/2002; HB 16, 8/23/2002; HB 18, 8/23/2002; SB 29, 8/23/2002
Executive Action:	HJR 1; SB 30; HB 21; HB 16; HB 18; SB 29

EXECUTIVE ACTION ON HJR 1

Motion: **SEN. BILL GLASER** moved that **HJR 1 BE CONCURRED IN.**

SEN. JON ELLINGSON noted the effort that had been put into the measure but said he could not support it. He felt that the

difference in the deficit. The dollars were already counted, he advised.

HEARING ON HB 21

Sponsor: **JOE BALYEAT, HD 32, Bozeman**

Proponents: **None**

Opponents: **None**

Opening Statement by Sponsor:

JOE BALYEAT, HD 32, Bozeman, advised HB 32 was an act maximizing general fund revenue by enhancing collection of state reimbursement for indirect costs associated with federal or private contracts and grants; requiring full recovery of indirect costs from federal and private grants; providing that an agency may not waive reimbursement for indirect costs; providing an exception for units of the university system and intra agency grants and contracts; requiring the **Department of Administration** to provide assistance to agencies. He said it was a good management bill that came out of the Legislative Audit Committee. He said he had additional sponsors from the Legislative Audit Committee from both the Senate and the House including the Chairman, **SEN. TESTER.** The estimate was that it would save $1.5 million in this fiscal year, $1 million in 2004 and $600,000 in 2005. He discussed a memo from the **Legislative Audit Division. EXHIBIT(tas05a03)** He said Universities were exempted because they are doing a good job with recovering the costs. An amendment would add interagency grants to the exceptions, he advised.

{Tape : 2; Side : A}

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. STONINGTON asked if the fiscal note was based on requiring full indirect cost recovery from universities going into the general fund.

REP. BALYEAT replied that even when the universities were included in the bill, it was recognized that the money would stay with the university system. There was an internal reason to include the universities but that could be addressed in the regular session.

SEN. STONINGTON found it curious, given his philosophy about government that he had used a stick rather than a carrot--why he chose not to write it as an incentive to agencies to be able to keep their indirect costs and be able to utilize those monies in their programs.

REP. BALYEAT advised he didn't write the language of the bill; it came out of the **Legislative Audit Division.** It was a bipartisan bill that was co-sponsored. The reason to not use a carrot instead of stick was that if agencies kept the money from indirect costs recovery, that would eventually come out in their budgets. There would not then be a positive impact to the general fund.

SEN. STONINGTON advised there would have to be another fund transfer based on the amounts.

REP. BALYEAT said there was not much distinction between using a carrot or a stick, because it was government agencies. If it was a transfer of money somehow out to the private sector, he would look for a way to use a carrot.

Closing by Sponsor:

REP. **BALYEAT** closed on the bill.

HEARING ON HB 16

Sponsor: **REP. DEE BROWN, HD 83, Hungry Horse**

Proponents: **None**

Opponents: **None**

Opening Statement by Sponsor:

REP. **DEE BROWN, HD 83, Hungry Horse,** advised the bill came from information received while she served on **Legislative Audit Committee. EXHIBIT(tas05a04)** The bill was an act maximizing interest earned by the general fund by limiting inter-entity loans in funds or accounting entities that are owed money by the federal government or other third parties; requiring the borrowing agency to bill the federal government or other third

SEN. STONINGTON about the two different time periods.

SEN. GLASER advised one was already in the law. The second one was added. There was only 60 days in order to accrue it.

SEN. STONINGTON expressed concern about the inconsistency. She wondered if the 3 months was the first time only and then 45 days after that.

Mr. Heiman advised that for every December payment there would be a quarter to pay it and for every June payment there would be six weeks to pay it. Six weeks was literally because there was eight weeks after the state closes it books for the accrual to show up.

SEN. STONINGTON asked if there was a problem with inconsistency.

CHAIRMAN DePRATU advised it would not be a problem because the middle of the year payment was an estimated payment and there would not be all the detail and auditing as when closing the books at the end of the year.

SEN. ELLIS thought it was an appropriate idea from a principle standpoint but was a little concerned that no one was there from the mining industry to deal with any problems that they might forsee. He noted the regular session was coming up and any problems would be addressed at that time. He said he would support the amended bill.

SEN. STONINGTON asked about the other amendment.

SEN. GLASER said he took **Mr. Blattie** to the staff that put this together. They explained what was going on and **Mr. Blattie** felt comfortable. His only concern was if this money was to be collected, that counties get their share in a timely fashion.

Vote: Motion that **SB 30 DO PASS AS AMENDED carried 8-0.**

EXECUTIVE ACTION ON HB 21

Motion: **SEN. STONINGTON** moved that **HB 21 BE CONCURRED IN.**

Motion: **SEN. STONINGTON** moved that **HB002101.ALH BE ADOPTED. EXHIBIT(tas05a09)**

Vote: Motion that **HB003001.ALH BE ADOPTED carried 8-0.**

Motion/Vote: **SEN. STONINGTON** moved that **HB 21 DO PASS AS AMENDED. Motion carried 8-0.**

2002 Montana Legislature

About Bill -- Links

HOUSE BILL NO. 21

INTRODUCED BY J. BALYEAT

AN ACT MAXIMIZING GENERAL FUND REVENUE BY ENHANCING COLLECTION OF STATE REIMBURSEMENT FOR INDIRECT COSTS ASSOCIATED WITH FEDERAL OR PRIVATE CONTRACTS AND GRANTS; REQUIRING FULL RECOVERY OF INDIRECT COSTS FROM FEDERAL AND PRIVATE GRANTS; PROVIDING THAT AN AGENCY MAY NOT WAIVE REIMBURSEMENT FOR INDIRECT COSTS; PROVIDING AN EXCEPTION FOR UNITS OF THE UNIVERSITY SYSTEM AND INTRAAGENCY OR INTERAGENCY GRANTS AND CONTRACTS; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO PROVIDE ASSISTANCE TO AGENCIES; AMENDING SECTION 17-3-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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(2) An agency, except for a unit of the university system, that applies for or otherwise receives funds through federal or private grants or contracts that do not allow the agency to fully recover indirect costs shall notify and receive written approval from its approving authority prior to accepting the funds.

(3) An agency, except for a unit of the university system, may not, as part of the grant or contract proposal or negotiation process, waive or otherwise forfeit the agency's ability to recover indirect costs that are otherwise allowable costs under the program, except for intraagency or interagency grants or contracts. For grants or contracts for which the entity providing the funds limits administrative cost reimbursements or indirect cost recoveries by regulation, policy, or guideline, statewide and agency indirect costs paid originally from the general fund must be claimed first, other indirect costs must be claimed second, agency direct costs of administration must be claimed third, and program direct costs must be claimed last. For grants or contracts for which there is no limit on indirect costs or

administrative costs, indirect and administrative costs must be claimed first and direct program costs must be claimed last.

(4) The department shall provide technical assistance to an agency on how to build indirect costs into a grant.

~~(2)~~(5) Indirect costs recovered from federal sources pursuant to the statewide cost allocation plan provided in 17-3-110, except those costs recovered by a unit of the university system, must be deposited in the general fund. All other indirect costs, except those costs recovered by a unit of the university system, must be deposited in the fund from which the indirect costs were originally paid."

Section 2. Effective date. [This act] is effective on passage and approval.

- END -

Latest Version of HB 21 *(HB0021.ENR)*
Processed for the Web on August 10, 2002 (2:22PM)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted. See the status of this bill for the bill's primary sponsor.

Status of this Bill | 2002 Legislature | Leg. Branch Home
This bill in WP 5.1 | All versions of all bills in WP 5.1
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Prepared by Montana Legislative Services

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